

1 DANIEL P. MURPHY (CA 153011)
dmurphy245@yahoo.com
2 4691 Torrey Circle, A306
San Diego, California 92130
3 Telephone: (619) 379-2460

4 JOHNSON BOTTINI, LLP
Francis A. Bottini, Jr. (CA 175783)
5 frankb@johnsonbottini.com
Brett M. Weaver (CA 204715)
6 brett@johnsonbottini.com
Derek J. Wilson (CA 250309)
7 derekw@johnsonbottini.com
501 West Broadway, Suite 1720
8 San Diego, California 92101
Telephone: (619) 230-0063
9 Facsimile: (619) 238-0622

10 *Attorneys for Plaintiff DAVID TOURGEMAN*

11 **UNITED STATES DISTRICT COURT**

12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 DAVID TOURGEMAN,

CASE NO.: 08-CV-1392-JLS(NLS)

14 Plaintiff,

**PLAINTIFF DAVID TOURGEMAN'S
SEPARATE STATEMENT OF
MATERIAL FACTS IN SUPPORT OF
HIS MOTION TO COMPEL FURTHER
RESPONSES TO REQUESTS FOR
PRODUCTION AND
INTERROGATORIES TO DEFENDANT
NELSON & KENNARD**

15 vs.

16 COLLINS FINANCIAL SERVICES, INC., a
Texas corporation; NELSON & KENNARD, a
California partnership, DELL FINANCIAL
17 SERVICES, L.P., a Delaware limited
partnership; CIT FINANCIAL USA, INC., a
18 Delaware corporation; and DOES 1 through 10,
inclusive,

Date: April 5, 2010
Time: 9:30 a.m.
Courtroom: 1101
Judge: Honorable Nita L. Stormes

19 Defendants.

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1 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

2 **REQUEST FOR PRODUCTION NO. 1:**

3 Please produce ALL COMMUNICATIONS between NELSON and COLLINS that RELATE
4 TO Plaintiff David Turgeman and the collection of his alleged debt. To the extent that these
5 communications need to be redacted for privilege, please provide Plaintiff with a privilege log as
6 described above.

7 **RESPONSE TO DOCUMENT REQUEST NO. 1:**

8 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
9 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
10 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
11 objects to this Request to the extent that it seeks proprietary information, trade secret information,
12 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
13 disclosure of that information without the consent of third parties and to the extent that it seeks
14 information subject to the attorney-client privilege or the attorney work product doctrine.

15 Subject to and without waiving the forgoing objections or the General Objections, Defendant
16 will produce all documents in its possession, custody or control that relate to the Plaintiff, his account or
17 the defenses asserted in this action.

18 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 1:**

19 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
20 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
21 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
22 category, the part shall be specified and inspection permitted of the remaining parts. The party
23 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
24 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
25 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
26 defendant’s original responses contained imprecise, boilerplate objections:

27 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
28 and the Court are unable to determine, with certainty, the requests for
which Defendant is producing documents, the requests for which
Defendant is withholding documents and on what basis, and the requests

for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 1 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.

Keith H. v. Long Beach Unified Sch. Dist., 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Further, Federal Rule of Civil Procedure 26(b)(5) states that:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Request No. 1. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client

1 privilege or work product doctrine is insufficient to enable the propounding party to assess the
2 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
3 Nelson has failed to produce a privilege log containing any of the above-described information as
4 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
5 claims cannot be properly evaluated.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for
7 response to Request No. 1, provide a supplemental response to Request No. 1 without the stated
8 objections, provide a substantive response, and produce any documents improperly withheld from
9 production.

10 **REQUEST FOR PRODUCTION NO. 2:**

11 Please produce ALL training materials RELATING TO the collection of debts YOU provide to
12 NELSON employees.

13 **RESPONSE TO DOCUMENT REQUEST NO. 2:**

14 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
15 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
16 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
17 objects to this Request to the extent that it seeks proprietary information, trade secret information,
18 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
19 disclosure of that information without the consent of third parties and to the extent that it seeks
20 information subject to the attorney-client privilege or the attorney work product doctrine.

21 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
22 a protective order by the Court, Defendant will produce non-privileged documents that related to the
23 claims and defenses in this action that are responsive to this Request.

24 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 2:**

25 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
26 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
27 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
28 category, the part shall be specified and inspection permitted of the remaining parts. The party

1 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 2 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 3 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 4 defendant’s original responses contained imprecise, boilerplate objections:

5 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 6 and the Court are unable to determine, with certainty, the requests for
 7 which Defendant is producing documents, the requests for which
 8 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

9 *Id.* at *4-5.

10 Nelson objects to Request No. 2 on the basis that it is “overbroad, unduly burdensome and
 11 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 12 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.

13 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 14 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 15 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 16 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 17 stated objections, and/or whether responsive documents even exist.

18 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

19 When a party withholds information otherwise discoverable by claiming
 20 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 21 (i) expressly make the claim; and
- 22 (ii) describe the nature of the documents, communications, or tangible things
 23 not produced or disclosed--and do so in a manner that, without revealing
 24 information itself privileged or protected, will enable other parties to
 assess the claim.

25 “A privilege log should contain the following information: (1) the identity and position of its
 26 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 27 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 28 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other

1 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 2 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
 3 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 4 246 F.R.D. 614, 620 (C.D. Cal. 2007).

5 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 6 Request No. 2. The objection is stated simply as “seek[ing] information subject to the attorney-client
 7 privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 8 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 9 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 10 Nelson has failed to produce a privilege log containing any of the above-described information as
 11 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 12 claims cannot be properly evaluated.

13 Nelson only agrees to produce documents related to the claims and defenses in this case. This
 14 response is unclear. The Request seeks all training materials Nelson’s provides its employees that are
 15 related to the collection of debts. The Complaint, however, does not limit Nelson’s alleged improper
 16 debt collection practices to the alleged debt collected from Tourgeman. Indeed, the Complaint includes
 17 class allegations and a class comprised of:

18 All consumers residing in the United States and abroad who, during the
 19 period within one year of the date of the filing of the complaint, were
 20 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

21 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 22 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 23 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 24 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 25 default judgments against consumers without having original or copies of original agreements to prove
 26 the existence, terms, and amount of the debt, and in many cases without having proper information
 27 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 28 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 individuals who the collection law firms know have no knowledge of the underlying facts and file

1 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 2 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 3 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 4 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

5 Since Nelson’s debt collection practices as a whole are at issue, the training materials sought in
 6 this Request are relevant to showing how Nelson conducts its debt collection practices. Therefore,
 7 Nelson’s attempt to limit the scope of this Request is improper.

8 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for
 9 response to Request No. 2 or provide a supplemental response to Request No. 2 without the stated
 10 objections, provide a substantive response, and produce any documents improperly withheld from
 11 production.

12 **REQUEST FOR PRODUCTION NO. 3:**

13 Please produce ALL DOCUMENTS CONCERNING the duties and responsibilities of
 14 NELSON employees who receive data RELATING to alleged debts.

15 **RESPONSE TO DOCUMENT REQUEST NO. 3:**

16 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 17 “receive data RELATING to alleged debts.” Nelson & Kennard is a debt collection law firm and the
 18 Request could be read to cover virtually every employee of the firm. Defendant also objects to this
 19 Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it
 20 seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated
 21 to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent
 22 that it seeks proprietary information, trade secret information, information subject to protective orders,
 23 confidentiality agreements, or statutory provisions that bar the disclosure of that information without the
 24 consent of third parties and to the extent that it seeks information subject to the attorney-client privilege
 25 or the attorney work product doctrine.

26 Subject to and without waiving the forgoing objections or the General Objections, Defendant
 27 responds that it is willing to meet and confer with Plaintiff to discuss the scope of this Request and any
 28 response thereto.

1 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 3:**

2 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 3 "receive data RELATING to alleged debts." Nelson & Kennard is a debt collection law firm and the
 4 Request could be read to cover virtually every employee of the firm. Defendant also objects to this
 5 Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it
 6 seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated
 7 to lead to the discovery of admissible evidence. Plaintiff does not claim that his account data was
 8 altered by Nelson & Kennard because the firm employed faulty procedures for "receiving debt related
 9 information." Rather, Plaintiff alleges that he paid Dell in full for his computer before the account was
 10 ever sold to Collins Financial Services. Any "debt related information" concerning his account, was
 11 according to Plaintiff's theory, already inaccurate when it was sold to Collins. The law firm's policies
 12 relating to receiving "debt related information" from its client are not relevant. Defendant further
 13 objects to this Request to the extent that it seeks proprietary information, trade secret information,
 14 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
 15 disclosure of that information without the consent of third parties and to the extent that it seeks
 16 information subject to the attorney-client privilege or the attorney work product doctrine.

17 Subject to and without waiving the foregoing objections or the General Objections, Defendant
 18 responds as follows: Assuming that Plaintiff seeks information regarding the specific duties and
 19 procedures of the persons responsible for uploading the account data received from clients at the time
 20 an account is placed for collection with Defendant, Defendant will produce responsive documents.

21 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 3:**

22 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 23 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
 25 category, the part shall be specified and inspection permitted of the remaining parts. The party
 26 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 27 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
 28

1 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 2 defendant's original responses contained imprecise, boilerplate objections:

3 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 4 and the Court are unable to determine, with certainty, the requests for
 5 which Defendant is producing documents, the requests for which
 6 Defendant is withholding documents and on what basis, and the requests
 7 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

7 *Id.* at *4-5.

8 Nelson objects to Request No. 3 on the basis that it is "overbroad, unduly burdensome and
 9 oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 10 the discovery of admissible evidence." Nelson argues that Tourgeaman's debt related information was
 11 already inaccurate when it was sold to Collins. This response misses the point. The Request seeks
 12 documents concerning the duties and responsibilities of Nelson employees who receive data relating to
 13 alleged debts. The documents sought reveal certain aspects of Nelson's debt collection practices, such
 14 as whether its employees are properly trained to comply with applicable rules and regulations. Thus, it
 15 is not important for purposes of this document Request if Tourgeaman's debt related information was
 16 inaccurate.

17 Nelson objects to Request No. 3 on the basis that the term "receive data relating to alleged
 18 debts" is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to
 19 attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners,*
 20 *L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Nelson's contention that
 21 this covers every employee of the firm is grossly overstated. This Request only refers to the employees
 22 who receive debt related information. Thus, this boilerplate objection cannot be sustained.

23 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

24 When a party withholds information otherwise discoverable by claiming
 25 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 26 (i) expressly make the claim; and
 27 (ii) describe the nature of the documents, communications, or tangible things
 28 not produced or disclosed--and do so in a manner that, without revealing
 information itself privileged or protected, will enable other parties to
 assess the claim.

1
 2 “A privilege log should contain the following information: (1) the identity and position of its
 3 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 4 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 5 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 6 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 7 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
 8 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 9 246 F.R.D. 614, 620 (C.D. Cal. 2007).

10 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 11 Request No. 3. The objection is stated simply as “seek[ing] information subject to the attorney-client
 12 privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 13 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 14 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 15 Nelson has failed to produce a privilege log containing any of the above-described information as
 16 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 17 claims cannot be properly evaluated.

18 Lastly, Nelson originally tried to restrict the scope of Request No. 3 to documents related only to
 19 Collins. Now, Nelson has abandoned that position, but still attempts to narrow the scope of the requests
 20 by agreeing to produce only documents related to the duties and procedures of the persons who *upload*
 21 *the account data received from clients*. Request No. 3, however, was intended to be much broader.
 22 Request No. 3 seeks documents showing the duties and responsibilities of all the Nelson employees
 23 who receive data relating to alleged debts. These documents are highly relevant because they
 24 demonstrate how Nelson’s employees conduct their debt collection practices. And since there are
 25 several Nelson employees who may receive the debt related information and participate in the debt
 26 collection process, Nelson’s supplemental response is insufficient.

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1 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
2 response to Request No. 3 without the stated objections, provide a substantive response, and produce
3 any documents improperly withheld from production.

4 **REQUEST FOR PRODUCTION NO. 5:**

5 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for filing
6 a lawsuit against an alleged debtor.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

8 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
9 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
10 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
11 is a collection law firm with a number of clients. The Request is so vague and broad and written it
12 could potentially be read to request copies of every document maintained by the firm.

13 Subject to and without waiving the forgoing objections or the General Objections, Defendant is
14 willing to meet and confer with Plaintiff to discuss this request and the scope of any response.

15 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 5:**

16 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
17 oppressive, and the extent that it seeks information which is not relevant to the subject matter of this
18 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
19 is a collection law firm with a number of clients. The Request is so vague and broad and written it
20 could potentially be read to request copies of every document maintained by the firm.

21 Subject to and without waiving the forgoing objections or the General Objections, Defendant
22 responds as follows: Assuming that Plaintiff seeks documents related to written policies and guidelines
23 for filing suit against a debtor, without waiving any objection that the requested documents are
24 protected by the attorney-client privilege or attorney work product doctrine, Defendant will produce
25 responsive documents.

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 5:**

27 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
28 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*

1 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 2 category, the part shall be specified and inspection permitted of the remaining parts. The party
 3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 8 and the Court are unable to determine, with certainty, the requests for
 9 which Defendant is producing documents, the requests for which
 10 Defendant is withholding documents and on what basis, and the requests
 11 for which it has no responsive documents. Defendant cites boilerplate
 12 general objections, and does not explain why the objection applies to the
 13 response or whether documents were withheld pursuant to the stated
 14 objections.
 15 *Id.* at *4-5.

16 Nelson objects to Request No. 5 on the basis that it is “overbroad, unduly burdensome and
 17 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 18 the discovery of admissible evidence.” Nelson merely states that it is a law firm with a number of
 19 clients. This is an insufficient basis for an objection. *See Keith H. v. Long Beach Unified Sch. Dist.*,
 20 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show
 21 discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its
 22 objections.”). Additionally, Nelson’s contention that this Request potentially covers every document
 23 maintained by the firm is without merit. This Request is limited to documents related to Nelson’s
 24 policies and guidelines for filing lawsuits against alleged debtors.

25 Nelson objects to Request Nos. 5 on the basis that the Request is vague and ambiguous. Nelson,
 26 however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and
 27 phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist.
 28 LEXIS 31688 (N.D. Cal. 2007). Further, Nelson has offered little to no meaningful facts to support the
 29 stated objections. Thus, this boilerplate objection cannot be sustained.

30 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

31 When a party withholds information otherwise discoverable by claiming
 32 that the information is privileged or subject to protection as trial-
 33 preparation material, the party must:

- (i) expressly make the claim; and
 - (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

5 “A privilege log should contain the following information: (1) the identity and position of its
6 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
7 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
8 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
9 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
10 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
11 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
12 246 F.R.D. 614, 620 (C.D. Cal. 2007).

13 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
14 Request No. 5. The objection is stated simply as “without waiving any objection that the requested
15 documents are protected by the attorney-client privilege or attorney work product doctrine.” Such a
16 blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the
17 propounding party to assess the applicability of the privilege or protection to the specific facts of the
18 interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the
19 above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec.
20 ¶13). Consequently, the privilege claims cannot be properly evaluated.

21 Accordingly, Tourgeman requests that this Court order Nelson to provide a privilege log for
22 response to Request No. 5, provide a supplemental response to Request No. 5 without the stated
23 objections, provide a substantive response, and produce any documents improperly withheld from
24 production.

25 | REQUEST FOR PRODUCTION NO. 6:

26 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for
27 dismissing a complaint against an alleged debtor.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

2 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 3 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 4 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
 5 is a collection law firm with a number of clients. Decisions to dismiss particular lawsuits on behalf of
 6 particular clients will necessarily be made on a case by case basis. Documents relating to Plaintiff and
 7 the litigation relating to his account will be produced, but the firm will not agree to produce all
 8 documents that relate to its decision to dismiss other cases on behalf of other clients.

9 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 6:**

10 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 11 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 12 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
 13 is a collection law firm with a number of clients. Decisions to dismiss particular lawsuits on behalf of
 14 particular clients will necessarily be made on a case by case basis, in light of the status of the case and
 15 various other factors that may be considered by the attorney.

16 Subject to and without waiving the forgoing objections or the General Objections, Defendant
 17 responds as follows: Without waiving any objection that the requested documents are protected by the
 18 attorney-client privilege or attorney work product doctrine, Defendant will produce documents, to the
 19 extent any exist, which relate to its general standards for dismissing collection complaints.

20 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 6:**

21 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 22 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 24 category, the part shall be specified and inspection permitted of the remaining parts. The party
 25 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 26 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 27 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 28 defendant’s original responses contained imprecise, boilerplate objections:

1 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 2 and the Court are unable to determine, with certainty, the requests for
 3 which Defendant is producing documents, the requests for which
 4 Defendant is withholding documents and on what basis, and the requests
 5 for which it has no responsive documents. Defendant cites boilerplate
 6 general objections, and does not explain why the objection applies to the
 7 response or whether documents were withheld pursuant to the stated
 8 objections.

9 *Id.* at *4-5.

10 Nelson objects to Request No. 6 on the basis that it is "overbroad, unduly burdensome and
 11 oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 12 the discovery of admissible evidence." Nelson argues it is a collections firm with a number of clients
 13 and that decisions to dismiss lawsuits are made on a case by case basis. But this Request asks for
 14 Nelson's policies and guidelines for dismissing complaints against alleged debtors. The Request is
 15 clear. Since Nelson's response is so broad and unspecific, it is impossible to tell whether documents are
 16 being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

17 Further, Federal Rule of Civil Procedure 26(b)(5) states that:

18 When a party withholds information otherwise discoverable by claiming
 19 that the information is privileged or subject to protection as trial-
 20 preparation material, the party must:

- 21 (i) expressly make the claim; and
- 22 (ii) describe the nature of the documents, communications, or tangible things
 23 not produced or disclosed--and do so in a manner that, without revealing
 24 information itself privileged or protected, will enable other parties to
 25 assess the claim.

26 "A privilege log should contain the following information: (1) the identity and position of its
 27 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 28 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 29 prepared or communicated; (7) the document's present location; and (8) the specific privilege or other
 30 reason it is being withheld." *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009).

31 When asserting the attorney-client privilege, "[t]he party asserting the privilege bears the initial burden
 32 of demonstrating that the communication falls within the privilege." *Bible v. Rio Props., Inc.*, 246
 33 F.R.D. 614, 620 (C.D. Cal. 2007).

1 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 2 Request No. 6. The objection is stated simply as “[w]ithout waiving any objection that the requested
 3 documents are protected by the attorney-client privilege or attorney work product doctrine.” Such a
 4 blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the
 5 propounding party to assess the applicability of the privilege or protection to the specific facts of the
 6 interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the
 7 above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec.
 8 ¶13). Consequently, the privilege claims cannot be properly evaluated.

9 Accordingly, Tourgeaman requests that this Court order Nelson to provide a privilege log for
 10 response to Request No. 6, provide a supplemental response to Request No. 6 without the stated
 11 objections, provide a substantive response, and produce any documents improperly withheld from
 12 production.

13 **REQUEST FOR PRODUCTION NO. 7:**

14 Please produce ALL form letters, enclosures, envelopes, complaints, memoranda, etc., used by
 15 NELSON in its debt collection activity.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

17 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 18 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 19 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
 20 is a collection law firm with a number of clients. Documents relating to Plaintiff and the litigation
 21 relating to his account will be produced, but the firm will not agree to produce all documents that relate
 22 to other cases filed on behalf of other clients.

23 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 7:**

24 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 25 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 27 category, the part shall be specified and inspection permitted of the remaining parts. The party
 28 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other

1 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 2 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 3 defendant’s original responses contained imprecise, boilerplate objections:

4 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 5 and the Court are unable to determine, with certainty, the requests for
 6 which Defendant is producing documents, the requests for which
 7 Defendant is withholding documents and on what basis, and the requests
 8 for which it has no responsive documents. Defendant cites boilerplate
 9 general objections, and does not explain why the objection applies to the
 10 response or whether documents were withheld pursuant to the stated
 11 objections.

12 *Id.* at *4-5.

13 Nelson objects to Request No. 7 on the basis that it is “overbroad, unduly burdensome and
 14 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 15 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 16 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 17 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 18 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 19 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 20 stated objections, and/or whether responsive documents even exist.

21 Nelson also improperly narrows the scope of Request No. 7 and attempts to limit production to
 22 documents related only to Tourgeman. The Complaint, however, does not limit Nelson’s alleged
 23 improper debt collection practices to the alleged debt collected from Tourgeman. Indeed, the
 24 Complaint includes class allegations and a class comprised of:

25 All consumers residing in the United States and abroad who, during the
 26 period within one year of the date of the filing of the complaint, were
 27 contacted or sued in the United States by either Collins Financial or Nelson
 28 & Kennard in an effort to collect an alleged debt.

29 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 30 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 31 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 32 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 33 default judgments against consumers without having original or copies of original agreements to prove

1 the existence, terms, and amount of the debt, and in many cases without having proper information
 2 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 3 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
 4 individuals who the collection law firms know have no knowledge of the underlying facts and file
 5 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 6 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 7 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 8 lawsuits. As such, Nelson's entire debt collection practices are at issue.

9 Since Nelson's debt collection practices as a whole are at issue, all form letters, form
 10 complaints, and other form documents are relevant to showing how Nelson conducts its debt collection
 11 practices. Part of Nelson's debt collection involves its communications with alleged debtors. Further,
 12 because this is a class action lawsuit challenging Nelson's business practices, Nelson's offer to produce
 13 documents related only to Tourgeman and his account is insufficient. Thus, Request No. 7 is relevant
 14 and cannot be narrowed.

15 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 16 response to Request No. 7 without the stated objections, provide a substantive response, and produce
 17 any documents improperly withheld from production.

18 **REQUEST FOR PRODUCTION NO. 8:**

19 Please produce ALL DOCUMENTS that RELATE TO YOUR investigation of Plaintiff David
 20 Tourgeman's alleged debt.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

22 Defendant objects to this Request of the grounds that it is vague and ambiguous as to the term
 23 "investigation." Nelson & Kennard is a collection law firm, not an investigation firm. The firm is not
 24 required by law to conduct an independent investigation into the accounts that are placed with it for
 25 collection. Subject to and without waiving the forgoing objections or the General Objections,
 26 Defendant will produce non-privileged documents in its possession, custody or control that relate to
 27 Plaintiff, his account or the defenses asserted in this action.

28

1 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 8:**

2 Nelson objects to document Request No. 8 on the basis that the term "investigation" is vague
 3 and ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary
 4 definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am.*
 5 *Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Further, Nelson has offered little meaningful
 6 facts to support the stated objections, contending it is a collections firm and not an investigation firm.
 7 Although Nelson is a collections firm, it must conduct some type of investigation before it files lawsuits
 8 against alleged debtors. Thus, this boilerplate objection cannot be sustained.

9 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 10 response to Request No. 8 without the stated objections, provide a substantive response, and produce
 11 any documents improperly withheld from production.

12 **REQUEST FOR PRODUCTION NO. 9:**

13 Please produce ALL DOCUMENTS that RELATE TO any communication between YOU and
 14 COLLINS regarding collection practices and procedures.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

16 Defendant objects to this Request on the grounds that it is vague and ambiguous with respect to
 17 the term "regarding collection practices and procedures." Subject to and without waiving the foregoing
 18 objections or the General Objections, Defendant responds as follows: No such documents exist.

19 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 9:**

20 Nelson objects to document Request No. 9 on the basis that the term "regarding collection
 21 practices and procedures" is vague and ambiguous. Nelson, however, has failed to exercise reason and
 22 common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row*
23 Hotel Partners, L.P. v. Zurich Am. Ins. Co., 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Further,
 24 Nelson has offered no facts to support the stated objections. Thus, this boilerplate objection cannot be
 25 sustained.

26 Further, Nelson's response that "No such documents exist" is suspect. Collins is an entity
 27 specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits.
 28 The two firms are frequently in contact as Collins regularly utilizes Nelson's services. Therefore, it is

1 highly unlikely that there are no documents evidencing communications concerning Nelson's or
 2 Collins's debt collection practices and procedures.

3 Accordingly, Tourgeaman requests that this Court order Nelson to provide a supplemental
 4 response to Request No. 9 without the stated objections, provide a substantive response, and produce
 5 any documents improperly withheld from production.

6 **REQUEST FOR PRODUCTION NO. 10:**

7 Please produce ALL complaints YOU filed on behalf of COLLINS from July 31, 2007 to the
 8 present suing for breach of contract or under Rule 3.740 "collections cases."

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

10 Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome
 11 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
 12 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Complaints filed
 13 by Nelson & Kennard against other debtors have no bearing on this action. Defendant does not concede
 14 that Plaintiff may pursue this action as purported class action nor does Defendant concede that, even if
 15 class treatment were appropriate, that a class action is proper here, or that Plaintiff is a proper class
 16 representative with standing to pursue claims on behalf of a purported class. At best, the Request is
 17 premature.

18 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 10:**

19 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 20 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
 22 category, the part shall be specified and inspection permitted of the remaining parts. The party
 23 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 24 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
 25 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 26 defendant's original responses contained imprecise, boilerplate objections:

27 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 28 and the Court are unable to determine, with certainty, the requests for
 which Defendant is producing documents, the requests for which
 Defendant is withholding documents and on what basis, and the requests

for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 10 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Nelson also claims that “[c]omplaints filed by Nelson & Kennard against other debtors have no bearing on this action.” The Complaint, however, contains class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint includes class allegations and a class comprised of:

All consumers residing in the United States and abroad who, during the period within one year of the date of the filing of the complaint, were contacted or sued in the United States by either Collins Financial or Nelson & Kennard in an effort to collect an alleged debt.

Further, the Complaint contains numerous allegations that Nelson improperly initiates collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain default judgments against consumers without having original or copies of original agreements to prove the existence, terms, and amount of the debt, and in many cases without having proper information regarding the location of the debtor, thus obtaining default judgments without effectuating proper service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by individuals who the collection law firms know have no knowledge of the underlying facts and file verified complaints in which they attest to the truthfulness and accuracy of the information regarding

1 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 2 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 3 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

4 Since Nelson’s debt collection practices as a whole are at issue, all complaints filed on Collins’s
 5 behalf are relevant to establishing whether Nelson files legitimate and accurate lawsuits. Part of
 6 Nelson’s improper practices involves its decision to file lawsuits against alleged debtors. Thus, Request
 7 No. **10** is relevant and cannot be narrowed.

8 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 9 response to Request No. **10** without the stated objections, provide a substantive response, and produce
 10 any documents improperly withheld from production.

11 **REQUEST FOR PRODUCTION NO. 11:**

12 Please produce ALL DOCUMENTS that RELATE TO financial arrangements between YOU
 13 and COLLINS.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

15 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 16 “financial arrangements.” Subject to the forgoing, Defendant responds as follows: “No such
 17 documents exist.”

18 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 11:**

19 Nelson objects to Request No. **11** on the basis that the term “financial arrangements” is vague
 20 and ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary
 21 definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am.
 22 Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). This Request is clear and seeks documents
 23 evidencing payments from Collins to Nelson for services rendered. Stated differently, this Request
 24 seeks documents that show how Nelson is compensated for the services it provides to Collins. Nelson
 25 has offered little to no facts to support the stated objections. Thus, this boilerplate objection cannot be
 26 sustained.

27 Further, Nelson’s response that “No such documents exist” is suspect. Collins is an entity
 28 specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits.

1 The two firms are frequently in contact as Collins regularly utilizes Nelson's services. It is
2 inconceivable that Nelson does not expect to receive payment for its services. Finally, if Nelson is
3 working on a contingency basis, the contingency fee contract must be in writing under California
4 Business and Professions Code 6147.

5 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
6 response to Request No. 11 without the stated objections, provide a substantive response, and produce
7 any documents improperly withheld from production.

8 **REQUEST FOR PRODUCTION NO. 12:**

9 Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU filed
10 complaints against from July 31, 2007 to the present.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

12 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
13 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
14 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant does not
15 concede that Plaintiff may pursue this action as a purported class action nor does Defendant concede
16 that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff is a
17 proper class representative with standing to pursue claims on behalf of a purported class. At best, the
18 Request is premature.

19 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 12:**

20 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
21 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
22 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
23 category, the part shall be specified and inspection permitted of the remaining parts. The party
24 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
25 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
26 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
27 defendant’s original responses contained imprecise, boilerplate objections:

28 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
and the Court are unable to determine, with certainty, the requests for

which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 12 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to produce any responsive documents.

Request No.12 is relevant and reasonably calculated to lead to the discovery of admissible evidence. This Request seeks documents related to the number of alleged debtors that Nelson filed complaints against and establishes the number of class members. Since this is a class action alleging Nelson engages in improper debt collection practices, this Request is relevant and cannot be narrowed.

Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental response to Request No. 12 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 13:

Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU mailed letters to requesting payment of an alleged debt from July 31, 2007 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard

1 is a collection law firm with a number of clients. Letters sent by the firm to other debtors on behalf of
 2 other clients have no bearing on this case.

3 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 13:**

4 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 5 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 6 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 7 category, the part shall be specified and inspection permitted of the remaining parts. The party
 8 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 9 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 10 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 11 defendant’s original responses contained imprecise, boilerplate objections:

12 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 13 and the Court are unable to determine, with certainty, the requests for
 14 which Defendant is producing documents, the requests for which
 15 Defendant is withholding documents and on what basis, and the requests
 16 for which it has no responsive documents. Defendant cites boilerplate
 17 general objections, and does not explain why the objection applies to the
 18 response or whether documents were withheld pursuant to the stated
 19 objections.
 20 *Id.* at *4-5.

21 Nelson objects to Request No. 13 on the basis that it is “overbroad, unduly burdensome and
 22 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 23 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for
 24 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 25 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
 26 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
 27 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 28 the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
 produce any responsive documents.

Nelson also claims that “[l]etters sent by the firm to other debtors on behalf of other clients have
 no bearing on this case.” The Complaint, however, contains class allegations that Nelson engages in

1 improper debt collection activities. Indeed, the Complaint includes class allegations and a class
 2 comprised of:

3 All consumers residing in the United States and abroad who, during the
 4 period within one year of the date of the filing of the complaint, were
 5 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

6 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 7 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 8 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 9 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 10 default judgments against consumers without having original or copies of original agreements to prove
 11 the existence, terms, and amount of the debt, and in many cases without having proper information
 12 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 13 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 14 individuals who the collection law firms know have no knowledge of the underlying facts and file
 15 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 16 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 17 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 18 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

19 Since Nelson’s debt collection practices as a whole are at issue, documents related to the number
 20 of alleged debtors Nelson mailed letters to requesting payment of an alleged debt reveals the scope of
 21 Nelson’s potentially improper debt collection practices. And, the number of alleged debtors who
 22 received letters establishes the number of class members. Thus, Request No. 13 is relevant and cannot
 23 be narrowed.

24 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 25 response to Request No. 13 without the stated objections, provide a substantive response, and produce
 26 any documents improperly withheld from production.

27
 28

1 **REQUEST FOR PRODUCTION NO. 14:**

2 Please produce ALL DOCUMENTS that RELATE TO YOUR 1692g notices, including but not
3 limited to every sample collection letter YOU send to alleged debtors.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

5 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
6 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
7 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
8 is a collection law firm with a number of clients. There is no legitimate basis for requesting copies of
9 section 1692g notices sent to other debtors in connection with representing other clients.

10 Subject to and without waiving the forgoing objection or the General Objections, Defendant will
11 produce non-privileged documents that relate to Plaintiff, his account and the defenses in this action.

12 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 14:**

13 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
14 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
15 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
16 category, the part shall be specified and inspection permitted of the remaining parts. The party
17 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
18 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
19 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
20 defendant’s original responses contained imprecise, boilerplate objections:

21 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
22 and the Court are unable to determine, with certainty, the requests for
23 which Defendant is producing documents, the requests for which
24 Defendant is withholding documents and on what basis, and the requests
for which it has no responsive documents. Defendant cites boilerplate
general objections, and does not explain why the objection applies to the
response or whether documents were withheld pursuant to the stated
objections.

25 *Id.* at *4-5.

26 Nelson objects to Request No. 14 on the basis that it is “overbroad, unduly burdensome and
27 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
28 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for

1 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 2 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
 3 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
 4 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 5 the stated objections, and/or whether responsive documents even exist.

6 Nelson also claims that “[t]here is no legitimate basis for requesting copies of section 1692g
 7 notices sent to other debtors in connection with representing clients.” Nelson is wrong. The Complaint
 8 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
 9 Complaint includes class allegations and a class comprised of:

10 All consumers residing in the United States and abroad who, during the
 11 period within one year of the date of the filing of the complaint, were
 12 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

13 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 14 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 15 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 16 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 17 default judgments against consumers without having original or copies of original agreements to prove
 18 the existence, terms, and amount of the debt, and in many cases without having proper information
 19 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 20 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 21 individuals who the collection law firms know have no knowledge of the underlying facts and file
 22 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 23 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 24 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 25 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

26 Since Nelson’s debt collection practices as a whole are at issue, documents related to 1692g
 27 notices that Nelson sent to alleged debtors demonstrates Nelson’s overall debt collection techniques.
 28

1 This Request seeks evidence which goes to the heart of this dispute: whether Nelson engages in proper
 2 debt collection practices. Thus, Request No. 14 is relevant and cannot be narrowed.

3 Additionally, Nelson cannot satisfy its discovery obligations merely by producing the 1692g
 4 letter sent to Tourgeman. Rather, Nelson must produce all documents that relate to the 1692g notices it
 5 sent to alleged debtors during the class period.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 7 response to Request No. 14 without the stated objections, provide a substantive response, and produce
 8 any documents improperly withheld from production.

9 **REQUEST FOR PRODUCTION NO. 15:**

10 Please produce ALL DOCUMENTS RELATING TO the procedures and guidelines YOU sent
 11 to collect debts.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

13 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 14 “procedures and guidelines.” Defendant objects to this Request on the grounds that, as understood by
 15 Defendant, it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks
 16 information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead
 17 to the discovery of admissible evidence. Nelson & Kennard is a collection law firm, and virtually every
 18 piece of paper or electronic document it maintains could arguably “relate” to the collection process and
 19 could be construed as responsive.

20 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
 21 a protective order by the Court, Defendant will produce non-privileged documents that relate to
 22 Plaintiff, his account, and the defenses in this action.

23 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 15:**

24 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 25 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 27 category, the part shall be specified and inspection permitted of the remaining parts. The party
 28 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other

1 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 2 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 3 defendant’s original responses contained imprecise, boilerplate objections:

4 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 5 and the Court are unable to determine, with certainty, the requests for
 6 which Defendant is producing documents, the requests for which
 7 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

8 *Id.* at *4-5.

9 Nelson objects to Request No. 15 on the basis that it is “overbroad, unduly burdensome and
 10 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 11 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for
 12 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 13 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
 14 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
 15 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 16 the stated objections, and/or whether responsive documents even exist.

17 Nelson objects to document Request No. 15 on the basis that the term “procedures and
 18 guidelines” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense
 19 to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel*
Partners, L.P. v. Zurich Am. Ins. Co., 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Procedures”
 21 and “policies” are common English words that should not preclude Nelson from providing a substantive
 22 response. And, Nelson has offered little to no meaningful facts to support the stated objections. Thus,
 23 this boilerplate objection cannot be sustained.

24 Nelson also claims that this Request potentially seeks “virtually every piece of paper or
 25 electronic document it maintains.” Not true. This Request only seeks documents related to Nelson’s
 26 procedures and guidelines for collecting debts.

27

28

1 Finally, Nelson's offer to produce only documents related to Tourgeman, his account, and the
 2 defenses in this action narrows the scope of the Request and is insufficient. This is a class action
 3 lawsuit alleging Nelson improperly initiated debt collections and unlawfully filed lawsuits against
 4 numerous debtors. Since Nelson's debt collection procedures and guidelines may show the extent of
 5 Nelson's debt collection practices, these documents are relevant and must be produced.

6 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 7 response to Request No. 15 without the stated objections, provide a substantive response, and produce
 8 any documents improperly withheld from production.

9 **REQUEST FOR PRODUCTION NO. 17:**

10 Please produce ALL DOCUMENTS that RELATE TO YOUR policy for the retention and
 11 destruction of records, DOCUMENTS, or files from July 31, 2007 to the present.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

13 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 14 oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 15 reasonably calculated to lead to the discovery of admissible evidence.

16 Subject to and without waiving the forgoing objections or the General Objections, Defendant will
 17 produce non-privileged documents in its possession, custody or control, to the extent any exist, that are
 18 responsive to this Request.

19 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 17:**

20 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 21 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 23 category, the part shall be specified and inspection permitted of the remaining parts. The party
 24 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 25 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 26 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 27 defendant's original responses contained imprecise, boilerplate objections:

28 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 and the Court are unable to determine, with certainty, the requests for

which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Nelson objects to Request No. 17 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.

Keith H. v. Long Beach Unified Sch. Dist., 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Accordingly, Tourgeaman requests that this Court order Nelson to provide a supplemental response to Request No. 17 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 19:

Please produce ALL DOCUMENTS relating to the maintenance of procedures by NELSON adopted to avoid any violation of the Fair Debt Collection Practices Act and the Rosenthal Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the forgoing objections or the General Objections, upon entry of a protective order by the Court, Defendant will produce non-privileged documents that relate to the bona fide error defense in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 19:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo*,

1 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 2 category, the part shall be specified and inspection permitted of the remaining parts. The party
 3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 8 and the Court are unable to determine, with certainty, the requests for
 9 which Defendant is producing documents, the requests for which
 10 Defendant is withholding documents and on what basis, and the requests
 11 for which it has no responsive documents. Defendant cites boilerplate
 12 general objections, and does not explain why the objection applies to the
 13 response or whether documents were withheld pursuant to the stated
 14 objections.

15 *Id.* at *4-5.

16 Nelson objects to Request No. 19 on the basis that it is “overbroad, unduly burdensome and
 17 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 18 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 19 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 20 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 21 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 22 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 23 stated objections, and/or whether responsive documents even exist.

24 Nelson also improperly attempts to limit Request No. 19 to documents that also relate to the
 25 bona fide error defense. This response is insufficient and does not satisfy Nelson’s discovery
 26 obligations. Request No. 19 seeks documents related to Nelson’s policies for avoiding violations of the
 27 Fair Debt Collection Practices Act and the Rosenthal Act. Put differently, this Request seeks
 28 information on how Nelson trains its employees to collect debts and is not limited to just the bona fide
 29 error defense. Nelson cannot shelter its debt collection techniques from scrutiny by producing only
 30 documents related to the bona fide error defense.

1 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 2 response to Request No. 19 without the stated objections, provide a substantive response, and produce
 3 any documents improperly withheld from production.

4 **REQUEST FOR PRODUCTION NO. 20:**

5 Please produce ALL material, including video and audio tapes, pertaining to training by or for
 6 NELSON and its employees regarding the Fair Debt Collection Practices Act and the Rosenthal Act.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

8 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 9 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 10 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

11 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
 12 a protective order by the Court, Defendant will produce non-privileged documents that relate to the
 13 bona fide error defense in this action.

14 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 20:**

15 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 16 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 18 category, the part shall be specified and inspection permitted of the remaining parts. The party
 19 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 20 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 21 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 22 defendant’s original responses contained imprecise, boilerplate objections:

23 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 24 and the Court are unable to determine, with certainty, the requests for
 25 which Defendant is producing documents, the requests for which
 26 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

27 *Id.* at *4-5.

28

1 Nelson objects to Request No. 20 on the basis that it is “overbroad, unduly burdensome and
 2 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 3 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 4 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 5 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 6 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 7 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 8 stated objections, and/or whether responsive documents even exist.

9 Nelson also improperly attempts to limit Request No. 20 to documents that relate to the bona
 10 fide error defense. This response is insufficient and does not satisfy Nelson’s discovery obligations.
 11 Request No. 20 seeks training materials regarding the Fair Debt Collection Practices Act and the
 12 Rosenthal Act. In other words, this Request seeks information on how Nelson trains its employees to
 13 collect debts and is not limited to just the bona fide error defense. Nelson cannot shelter its debt
 14 collection techniques from scrutiny by producing only documents related to the bona fide error defense.

15 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 16 response to Request No. 20 without the stated objections, provide a substantive response, and produce
 17 any documents improperly withheld from production.

18 **REQUEST FOR PRODUCTION NO. 21:**

19 Please produce ALL DOCUMENTS RELATING TO insurance policies covering NELSON for
 20 violation of the Fair Debt Collection Practices Act and the Rosenthal Act.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

22 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 23 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 24 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Nelson & Kennard
 25 has not tendered the defense of this action to any insurance carrier so there are no relevant responsive
 26 documents.

27

28

1 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 21:**

2 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 3 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 4 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 5 category, the part shall be specified and inspection permitted of the remaining parts. The party
 6 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 7 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 8 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 9 defendant’s original responses contained imprecise, boilerplate objections:

10 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 11 and the Court are unable to determine, with certainty, the requests for
 12 which Defendant is producing documents, the requests for which
 13 Defendant is withholding documents and on what basis, and the requests
 14 for which it has no responsive documents. Defendant cites boilerplate
 15 general objections, and does not explain why the objection applies to the
 16 response or whether documents were withheld pursuant to the stated
 17 objections.
 18 *Id.* at *4-5.

19 Nelson objects to Request No. 21 on the basis that it is “overbroad, unduly burdensome and
 20 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 21 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 22 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 23 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 24 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 25 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 26 stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
 27 provide any responsive documents.

28 Nelson also refuses to produce documents to Request No. 21, contending Nelson “has not
 29 tendered the defense of this action to any insurance carrier so there are no relevant responsive
 30 documents.” But it is immaterial whether Nelson has tendered the defense of this action to any
 31 insurance carrier. The crux of the Complaint is that Nelson violated the Fair Debt Collection Practices
 32 Act. Documents that establish culpability or relate to indemnification for those violations are relevant.

1 If Nelson maintains an insurance policy that covers these violations, this is enough to render the
 2 documents relevant.

3 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 4 response to Request No. 21 without the stated objections, provide a substantive response, and produce
 5 any documents improperly withheld from production.

6 **REQUEST FOR PRODUCTION NO. 23:**

7 Please produce ALL DOCUMENTS that RELATE TO NELSON's procedures to verify alleged
 8 debts when received from a debt collector client, including but not limited to, COLLINS.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

10 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the terms
 11 "verify alleged debts." Nelson & Kennard is a collection law firm. To the extent that it understands the
 12 term "verify" as used in this Request, the firm does not have a legal obligation to independently verify
 13 the debts that are forwarded by its clients. Defendant also objects to this Request on the grounds that it
 14 is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is
 15 not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
 16 admissible evidence. Nelson & Kennard has a number of clients. There is no legitimate basis for
 17 seeking discovery concerning the handling of accounts forwarded by other clients of the firm.

18 Subject to and without waiving the forgoing objections or the General Objections, upon entry of
 19 a protective order by the Court, Defendant will produce non-privileged documents that relate to
 20 Plaintiff, his account, and the defenses in this action.

21 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 23:**

22 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 23 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
 25 category, the part shall be specified and inspection permitted of the remaining parts. The party
 26 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 27 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").

1 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 2 defendant's original responses contained imprecise, boilerplate objections:

3 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 4 and the Court are unable to determine, with certainty, the requests for
 5 which Defendant is producing documents, the requests for which
 6 Defendant is withholding documents and on what basis, and the requests
 7 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

7 *Id.* at *4-5.

8 Nelson objects to Request No. 23 on the basis that it is "overbroad, unduly burdensome and
 9 oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 10 the discovery of admissible evidence." But Nelson fails to provide any meaningful explanation for
 11 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 12 ("The party who resists discovery has the burden to show discovery should not be allowed, and has the
 13 burden of clarifying, explaining, and supporting its objections."). Moreover, because Nelson's response
 14 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 15 the stated objections, and/or whether responsive documents even exist.

16 Nelson objects to document Request No. 23 on the basis that the term "verify" is vague and
 17 ambiguous. Nelson, however, has failed to exercise reason and common sense to attribute ordinary
 18 definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am.*
 19 *Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). The term "verify" is a common English word
 20 that should not preclude Nelson from providing a meaningful response. Because Nelson has offered
 21 little to no meaningful facts to support the stated objection, this boilerplate objection cannot be
 22 sustained.

23 Nelson also contends there is no legitimate basis for Request No. 23 and offers to produce only
 24 documents related to Tourgeman, his account, and the defenses in this action. The Complaint, however,
 25 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
 26 Complaint includes class allegations and a class comprised of:

27 All consumers residing in the United States and abroad who, during the
 28 period within one year of the date of the filing of the complaint, were

1 contacted or sued in the United States by either Collins Financial or Nelson
 2 & Kennard in an effort to collect an alleged debt.

3 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 4 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 5 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 6 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 7 default judgments against consumers without having original or copies of original agreements to prove
 8 the existence, terms, and amount of the debt, and in many cases without having proper information
 9 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 10 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 11 individuals who the collection law firms know have no knowledge of the underlying facts and file
 12 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 13 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 14 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 15 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

16 Request No. 23 seeks documents related to Nelson’s procedures for verifying alleged debts
 17 received from debt collector clients. Since Nelson’s debt collection practices are in question, this
 18 Request is relevant to showing the process by which Nelson files debt related lawsuits and whether
 19 Nelson takes the time to ensure the alleged debts are legitimate.

20 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 21 response to Request No. 23 without the stated objections, provide a substantive response, and produce
 22 any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 25:

23 Please produce ALL DOCUMENTS that RELATE TO NELSON’s policies and procedures for
 24 settling alleged debts with debtors.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

25 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the terms
 26 “policies and procedures for settling.” Defendant also objects to this Request on the grounds that it is
 27 overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not
 28

1 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
 2 admissible evidence. Nelson & Kennard is a collection law firm with a number of different clients.
 3 Cases are settled on an individual basis depending on the facts and circumstances that are present at the
 4 time the settlement is consummated. There is no legitimate basis for seeking discovery regarding the
 5 settlement of debts that are forwarded to the firm by other clients.

6 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 25:**

7 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
 8 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
 9 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 10 category, the part shall be specified and inspection permitted of the remaining parts. The party
 11 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 12 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 13 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 14 defendant’s original responses contained imprecise, boilerplate objections:

15 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 16 and the Court are unable to determine, with certainty, the requests for
 17 which Defendant is producing documents, the requests for which
 18 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the
 response or whether documents were withheld pursuant to the stated
 objections.

19 *Id.* at *4-5.

20 Nelson objects to Request No. 25 on the basis that it is “overbroad, unduly burdensome and
 21 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 22 the discovery of admissible evidence.” But Nelson fails to provide any meaningful explanation for
 23 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
 24 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
 25 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response
 26 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
 27 the stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
 28 produce any responsive documents.

1 Nelson objects to document Request No. 25 on the basis that the term “policies and procedures
 2 for settling” is vague and ambiguous. Nelson, however, has failed to exercise reason and common
 3 sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel*
 4 *Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Policies” and
 5 “procedures” are common English words that should not preclude Nelson from providing a substantive
 6 response. Because Nelson has offered little to no meaningful facts to support the stated objection, this
 7 boilerplate objection cannot be sustained.

8 Nelson also contends “[t]here is no legitimate basis for seeking discovery regarding the
 9 settlement of debts that are forwarded to the firm by other clients.” Nelson is wrong. The Complaint
 10 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
 11 Complaint includes class allegations and a class comprised of:

12 All consumers residing in the United States and abroad who, during the
 13 period within one year of the date of the filing of the complaint, were
 14 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

15 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 16 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 17 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 18 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 19 default judgments against consumers without having original or copies of original agreements to prove
 20 the existence, terms, and amount of the debt, and in many cases without having proper information
 21 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 22 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 23 individuals who the collection law firms know have no knowledge of the underlying facts and file
 24 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 25 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 26 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 27 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

28

1 Request No. 25 seeks documents related to Nelson's policies and procedures for settling alleged
 2 debts with debtors. The manner in which Nelson settles alleged debts with debtors reflects on its debt
 3 collection practices. Since Nelson's debt collection practices are in question, this Request is relevant
 4 and goes to the heart of this case.

5 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 6 response to Request No. 25 without the stated objections, provide a substantive response, and produce
 7 any documents improperly withheld from production.

8 **REQUEST FOR PRODUCTION NO. 26:**

9 Please produce ALL DOCUMENTS that RELATE TO NELSON's revenue for each calendar
 10 year from 2005 to the present, including but not limited to financial summaries, period reports, tax
 11 returns and financial statements.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

13 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 14 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 15 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
 16 objects to this Request to the extent that it seeks confidential financial information.

17 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 26:**

18 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 19 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
 21 category, the part shall be specified and inspection permitted of the remaining parts. The party
 22 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 23 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
 24 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 25 defendant's original responses contained imprecise, boilerplate objections:

26 Defendant's responses do not allow for meaningful evaluation. Plaintiff
 27 and the Court are unable to determine, with certainty, the requests for
 28 which Defendant is producing documents, the requests for which
 Defendant is withholding documents and on what basis, and the requests
 for which it has no responsive documents. Defendant cites boilerplate
 general objections, and does not explain why the objection applies to the

1 response or whether documents were withheld pursuant to the stated
 2 objections.

2 *Id.* at *4-5.

3 Nelson objects to Request No. 26 on the basis that it is “overbroad, unduly burdensome and
 4 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 5 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.

6 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 7 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 8 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 9 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 10 stated objections, and/or whether responsive documents even exist. And, Nelson has not agreed to
 11 produce any responsive documents.

12 Documents related to Nelson’s revenues establish how debt collection activities were conducted
 13 and how Nelson was incentivized to pursue certain alleged debtors. To the extent Nelson contends this
 14 Request seeks confidential information, Tourgeman has offered to sign a protective order. Nelson
 15 ignored this offer.

16 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 17 response to Request No. 26 without the stated objections, provide a substantive response, and produce
 18 any documents improperly withheld from production.

19 **REQUEST FOR PRODUCTION NO. 28:**

20 Please produce ALL DOCUMENTS that RELATE TO NELSON’s processes for receiving the
 21 transmitted account information of debtors from COLLINS.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

23 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
 24 “processes for receiving the transmitted account information of debtors.” As Defendant understands the
 25 Request, there are no responsive documents.

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 28:**

27 Nelson objects to document Request No. 28 on the basis that the term “processes for receiving
 28 the transmitted account information of debtors” is vague and ambiguous. Nelson, however, has failed

1 to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
 2 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688
 3 (N.D. Cal. 2007). Because Nelson has offered little to no meaningful facts to support the stated
 4 objection, this boilerplate objection cannot be sustained.

5 Finally, Nelson's contention that no responsive documents exist is dubious. Collins is an entity
 6 specializing in debt collections while Nelson is a law firm that specializes in debt collection lawsuits.
 7 The two firms are frequently in contact as Collins regularly utilizes Nelson's services and transmits
 8 debtor account information. It is unlikely that Nelson has no documentation showing how it processes
 9 account information sent by Collins.

10 Accordingly, Tourgeaman requests that this Court order Nelson to provide a supplemental
 11 response to Request No. 28 without the stated objections, provide a substantive response, and produce
 12 any documents improperly withheld from production.

13 **REQUEST FOR PRODUCTION NO. 29:**

14 Please produce ALL DOCUMENTS that RELATE TO NELSON's contracts with skip-tracing
 15 services and other data providers YOU use to find current information or any alleged debtor.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

17 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
 18 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
 19 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

20 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 29:**

21 Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome
 22 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
 23 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and
 24 without waiving the forgoing objections or the General Objections, Defendant responds as follows:
 25 "Defendant will produce responsive documents."

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 29:**

27 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
 28 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo*,

1 S.p.A., 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
 2 category, the part shall be specified and inspection permitted of the remaining parts. The party
 3 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
 4 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
 5 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
 6 defendant’s original responses contained imprecise, boilerplate objections:

7 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
 8 and the Court are unable to determine, with certainty, the requests for
 9 which Defendant is producing documents, the requests for which
 10 Defendant is withholding documents and on what basis, and the requests
 11 for which it has no responsive documents. Defendant cites boilerplate
 12 general objections, and does not explain why the objection applies to the
 13 response or whether documents were withheld pursuant to the stated
 14 objections.

15 *Id.* at *4-5.

16 Nelson objects to Request No. 29 on the basis that it is “overbroad, unduly burdensome and
 17 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 18 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 19 *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who
 20 resists discovery has the burden to show discovery should not be allowed, and has the burden of
 21 clarifying, explaining, and supporting its objections.”). Moreover, because Nelson’s response is so
 22 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
 23 stated objections, and/or whether responsive documents even exist.

24 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 25 response to Request No. 29 without the stated objections, provide a substantive response, and produce
 26 any documents improperly withheld from production.

27 SPECIAL INTERROGATORIES

28 SPECIAL INTERROGATORY NO. 1:

29 Please identify the number of persons and entities in the United States who you contacted for the
 30 purposes of debt collection from July 31, 2007 to the present.

31 [Definitions omitted]

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

2 Defendant objects to this Interrogatory on the grounds that it is overbroad unduly burdensome
 3 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 4 reasonably calculated to lead to the discovery of admissible evidence. By propounding this
 5 Interrogatory, Plaintiff is simply attempting to impose undue burden and expense on defendant.
 6 Further, Defendant does not concede that Plaintiff may pursue this action as a purported class action nor
 7 does Defendant concede that, even if class treatment were appropriate, that a class action is proper here,
 8 or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported
 9 class. In addition, the case is not at issue as the Defendant has filed a motion to dismiss and a motion to
 10 strike the First Amended Complaint. At best, the Interrogatory is premature.

11 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

12 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
 13 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 14 reasonably calculated to lead to the discovery of admissible evidence. In this action, Plaintiff alleges
 15 that Defendants sought to collect a debt for a Dell computer, despite the fact that Plaintiff had allegedly
 16 paid for the computer in full. Plaintiff admits, however, that he had no documentation to show that he
 17 paid the debt in full. Plaintiff also claims that Defendants filed suit against him in the wrong judicial
 18 district. Plaintiff has not alleged, and cannot allege, that every consumer that Defendants tried to collect
 19 from had already paid their debt in full. Plaintiff has not alleged, and cannot allege, that every lawsuit
 20 that was filed by Defendants was filed in the wrong judicial district. Plaintiff has not alleged that
 21 Defendant violated federal or state law with respect to every single person or entity in the United States
 22 that it contacted for purposes of debt collection, nor could he make such a claim. There is no basis for
 23 asking for the total number of persons contacted. Plaintiff is simply attempting to impose undue burden
 24 and expense on Defendant. Further, Defendant does not concede that Plaintiff may pursue this action as
 25 a purported class action nor does Defendant concede that, even if class treatment were appropriate, that
 26 a class action is proper here, or that Plaintiff is a proper class representative with standing to pursue
 27 claims on behalf of a purported class. At best, the Interrogatory is premature. Subject to and without
 28 waiving the foregoing and the General Objections, Defendant responds as follows:

1 Nelson & Kennard engaged in the business of collecting debts. To do so, the firm not only
 2 “contacts” debtors, but it also obtains location information from third parties, interacts with courts,
 3 interacts with attorneys, corresponds and communicates with its clients and with other third parties in
 4 course of its business. Any of these persons or entities could be someone who was “contacted” by the
 5 firm for “the purposes of debt collection.” The firm does not track every single person or entity that it
 6 ever makes contact with, so this Interrogatory in its present form is unanswerable, and Plaintiff has not
 7 agreed to narrow its scope.

8 Defendant admits that it attempted to contact more than forty debtors in an attempt to collect a
 9 debt during the period between July 31, 2007 to the present.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

11 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 12 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 13 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 14 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

15 Nelson objects to Interrogatory No. 1 on the basis that it is “overbroad, unduly burdensome and
 16 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 17 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
 18 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
 19 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
 20 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
 21 denied). Nelson also argues this Request is inappropriate because Tourgeman has failed to make certain
 22 allegations in the Complaint. But the scope of discovery is not limited to the issues presented in the
 23 pleadings. *Hampton v. City of San Diego*, 147 F.R.D. 227, 229 (S.D. Cal. 1993). Tourgeman may
 24 propound discovery requests if they are reasonably calculated to lead to the discovery of admissible
 25 evidence.

26 In September 2009, this court rejected Nelson’s argument that discovery related to “class issues”
 27 was premature until the class was certified. Nelson still claims in its supplemental responses that
 28 Interrogatory No. 1 is premature because Tourgeman may not pursue this case as a class action.

1 Nelson's claims are inappropriate, especially since Nelson provided the supplemental responses on
 2 January 26, 2010, nearly four months after this court rejected Nelson's contention.

3 Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains
 4 class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint
 5 includes class allegations and a class comprised of:

6 All consumers residing in the United States and abroad who, during the
 7 period within one year of the date of the filing of the complaint, were
 8 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

9 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 10 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 11 that Nelson "fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 12 are legitimate and accurate." ¶32. The Complaint also specifies that Nelson "attempts to quickly obtain
 13 default judgments against consumers without having original or copies of original agreements to prove
 14 the existence, terms, and amount of the debt, and in many cases without having proper information
 15 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 16 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
 17 individuals who the collection law firms know have no knowledge of the underlying facts and file
 18 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 19 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 20 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 21 lawsuits. As such, Nelson's entire debt collection practices are at issue.

22 Interrogatory No. 1 establishes the number of class members and shows the scope of Nelson's
 23 debt collection activities. Originally, Nelson outright refused to answer Interrogatory No. 1. Now,
 24 Nelson's supplemental response fails to specify an exact number, merely stating the answer is "more
 25 than forty." Under Federal Rule 37, an "evasive or incomplete disclosure, answer, or response" is
 26 equivalent to "a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(3).

27 Lastly, Nelson erroneously contends that "[p]laintiff is attempting to impose undue burden and
 28 expense on Defendant." Interrogatory No. 1, however, is narrowly tailored as it seeks the **number** of

1 persons contacted for debt collection. The Interrogatory does not require Nelson to engage in
 2 burdensome data gathering of personal contact information. Rather, the Interrogatory merely seeks a
 3 ***number.***

4 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 5 response to Interrogatory No. 1 without the stated objections and provide a substantive response.

6 **SPECIAL INTERROGATORY NO. 2:**

7 Please identify the number of persons and entities in the United States who you sued for the
 8 purposes of debt collection from July 31, 2006 to the present.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

10 Defendant objects to this Interrogatory on the grounds that it is overbroad unduly burdensome
 11 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 12 reasonably calculated to lead to the discovery of admissible evidence. By propounding this
 13 Interrogatory, Plaintiff is simply attempting to impose undue burden and expense on Defendant.
 14 Further, Defendant does not concede that Plaintiff may pursue this action as a purported class action nor
 15 does Defendant concede that, even if class treatment were appropriate, that a class action is proper here,
 16 or that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported
 17 class. In addition, the case is not at issue as the Defendant has filed a motion to dismiss and a motion to
 18 strike the First Amended Complaint. At best, the Interrogatory is premature.

19 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

20 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
 21 and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor
 22 reasonably calculated to lead to the discovery of admissible evidence. Plaintiff claims that Defendants
 23 sought to collect a debt for a Dell computer, despite the fact that he had allegedly paid for the computer
 24 in full. Plaintiff admits, however, that he has no documentation to show that he paid the debt in full.
 25 Plaintiff also claims that Defendants filed suit against him in the wrong judicial district. Plaintiff has
 26 not alleged, and cannot allege, that every consumer that Defendants tried to collect from had already
 27 paid their debt in full. Plaintiff has not alleged, and cannot allege, that every lawsuit that was filed by
 28 Defendants was filed in the wrong judicial district. Plaintiff has not alleged that Defendants violated

1 federal or state law with respect to every person or entity in the United States that was sued by
 2 Defendants. There is no basis for asking Defendants for the total number of persons or entities sued.
 3 Plaintiff is simply attempting to impose undue burden and expense on Defendant. Further, Defendant
 4 does not concede that Plaintiff may pursue this action as a purported class action nor does Defendant
 5 concede that, even if class treatment were appropriate, that a class action is proper here, or that Plaintiff
 6 is a proper class representative with standing to pursue claims on behalf of a purported class. At best,
 7 the interrogatory is premature.

8 Subject to and without waiving the foregoing and the General Objections, Defendant responds
 9 as follows: From July 31, 2006 to the present, Defendant has filed suit against more than forty debtors.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

11 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 12 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 13 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 14 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

15 Nelson objects to Interrogatory No. 2 on the basis that it is “overbroad, unduly burdensome and
 16 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 17 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
 18 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
 19 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
 20 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
 21 denied). Nelson also argues this Request is inappropriate because Tourgeman has failed to make certain
 22 allegations in the Complaint. But the scope of discovery is not limited to the issues presented in the
 23 pleadings. *Hampton v. City of San Diego*, 147 F.R.D. 227, 229 (S.D. Cal. 1993). Tourgeman may
 24 propound discovery requests if they are reasonably calculated to lead to the discovery of admissible
 25 evidence.

26 In September 2009, this court rejected Nelson’s argument that discovery related to “class issues”
 27 was premature until the class was certified. Nelson still claims in its supplemental responses that
 28 Interrogatory No. 2 is premature because Tourgeman may not pursue this case as a class action.

1 Nelson's claims are inappropriate, especially since Nelson provided the supplemental responses on
 2 January 26, 2010, nearly four months after this court rejected Nelson's contention.

3 Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains
 4 class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint
 5 includes class allegations and a class comprised of:

6 All consumers residing in the United States and abroad who, during the
 7 period within one year of the date of the filing of the complaint, were
 8 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

9 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 10 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 11 that Nelson "fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 12 are legitimate and accurate." ¶32. The Complaint also specifies that Nelson "attempts to quickly obtain
 13 default judgments against consumers without having original or copies of original agreements to prove
 14 the existence, terms, and amount of the debt, and in many cases without having proper information
 15 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 16 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
 17 individuals who the collection law firms know have no knowledge of the underlying facts and file
 18 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 19 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 20 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 21 lawsuits. As such, Nelson's entire debt collection practices are at issue.

22 Interrogatory No. 2 establishes the number of class members and shows the scope of Nelson's
 23 debt collection activities. Originally, Nelson outright refused to answer Interrogatory No. 2. Now,
 24 Nelson's supplemental response fails to specify an exact number, merely stating the answer is "more
 25 than forty." Under Federal Rule 37, an "evasive or incomplete disclosure, answer, or response" is
 26 equivalent to "a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(3).

27 Lastly, Nelson erroneously contends that "[p]laintiff is attempting to impose undue burden and
 28 expense on Defendant." Interrogatory No. 2, however, is narrowly tailored as it seeks the **number** of

1 persons sued for debt collection. The Interrogatory does not require Nelson to engage in burdensome
 2 data gathering of personal contact information. Rather, the Interrogatory merely seeks a ***number***.

3 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 4 response to Interrogatory No. 2 without the stated objections and provide a substantive response.

5 **SPECIAL INTERROGATORY NO. 4:**

6 Please state the form of Nelson's organization and the date and place the organization was
 7 organized and registered and/or licensed to do business.

8 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

9 Defendant objects to this Interrogatory on the grounds that it seeks information which is not
 10 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
 11 admissible evidence. Subject to and without waiving the forgoing objection or the General Objections,
 12 Defendant responds as follows:

13 Nelson & Kennard is a California partnership. It is licensed to do business where necessary.

14 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

15 Defendant objects to this Interrogatory on the grounds that it seeks information which is not
 16 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
 17 admissible evidence. Subject to and without waiving the forgoing objection or the General Objections,
 18 Defendant responds as follows:

19 Defendant is a California partnership. It is licensed to do business by the county of Sacramento
 20 and its attorneys are licensed to practice law in the State of California. Defendant also maintains a
 21 collection agency license in the State of Washington.

22 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

23 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 24 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 25 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 26 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

27 Nelson objects to Interrogatory No. 4 on the basis that it is “not relevant to the subject matter of
 28 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Nelson

1 fails to provide any explanation for this objection. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th
 2 Cir. 1975) (those opposing discovery are “required to carry a heavy burden of showing” why discovery
 3 should be denied).

4 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 5 response to Interrogatory No. 4 without the stated objections and provide a substantive response.

6 **SPECIAL INTERROGATORY NO. 5:**

7 Please describe NELSON’s procedures and policies for receiving debt related information from
 8 NELSON’s client.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

10 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
 11 terms “receiving debt related information” and “NELSON’s client.” Nelson & Kennard has a number
 12 of different clients and it employs various methods with respect to each of those clients. Defendant also
 13 objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and
 14 to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor
 15 reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this
 16 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
 17 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
 18 that information without the consent of third parties and to the extent that it seeks information subject to
 19 the attorney-client privilege or the attorney work product doctrine.

20 **SUPPLMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

21 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
 22 terms “receiving debt related information” and “NELSON’s client.” This interrogatory is too vague to
 23 be answered in its current form and Plaintiff has refused to clarify or narrow it. Nelson & Kennard has
 24 a number of different clients and it employees various methods with respect to handling the data
 25 supplied by each of those clients. Defendant also objects to this Interrogatory on the grounds that it is
 26 overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not
 27 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
 28 admissible evidence. Plaintiff does not claim that his account data was altered by Nelson & Kennard

1 because the firm employed faulty procedures for “receiving debt related information.” Rather, Plaintiff
 2 alleges that he paid Dell in full for his computer before the account was ever sold to Collins Financial
 3 Services. Any “debt related information” concerning his account, was according to Plaintiff’s theory,
 4 already inaccurate when it was sold to Collins. The law firm’s policies relating to receiving “debt
 5 related information” from its client are not relevant. Defendant further objects to this Interrogatory to
 6 the extent that it seeks proprietary information, trade secret information, information subject to
 7 protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that
 8 information without the consent of third parties and to the extent that it seeks information subject to the
 9 attorney-client privilege or the attorney work product doctrine.

10 Subject to and without waiving the forgoing objection or the General Objections, Defendant
 11 responds as follows: Pursuant to Federal Rule of Civil Procedure 33(d), Defendant will produce
 12 documents responsive to this Interrogatory.

13 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

14 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 15 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 16 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 17 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

18 Nelson objects to Interrogatory No. 5 on the basis that it is “overbroad, unduly burdensome and
 19 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 20 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
 21 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
 22 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
 23 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
 24 denied).

25 Nelson objects to Interrogatory No. 5 on the basis that the terms “receiving debt related
 26 information” and “NELSON’s client” are vague and ambiguous. Nelson, however, has failed to
 27 exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
 28 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688

1 (N.D. Cal. 2007). Nelson argues it “has a number of different clients and it employs various methods
 2 with respect to handling the data supplied by each of those clients.” This is the exact information this
 3 Interrogatory seeks. If Nelson employs various methods for different clients, then Nelson must disclose
 4 those methods in its interrogatory response.

5 Federal Rule of Civil Procedure 26(b)(5) further provides:

6 When a party withholds information otherwise discoverable by claiming
 7 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 8 (i) expressly make the claim; and
- 9 (ii) describe the nature of the documents, communications, or tangible things
 10 not produced or disclosed--and do so in a manner that, without revealing
 information itself privileged or protected, will enable other parties to
 assess the claim.

11

12 “A privilege log should contain the following information: (1) the identity and position of its
 13 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 14 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 15 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 16 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 17 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
 18 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 19 246 F.R.D. 614, 620 (C.D. Cal. 2007).

20 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 21 Interrogatory No. 5. The objection is stated simply as “seek[ing] information subject to the attorney-
 22 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 23 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 24 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 25 Nelson has failed to produce a privilege log containing any of the above-described information as
 26 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 27 claims cannot be properly evaluated.

1 Nelson also contends that its policies are not relevant. Nelson is wrong. The Complaint
 2 contains class allegations that Nelson engages in improper debt collection activities. Indeed, the
 3 Complaint includes class allegations and a class comprised of:

4 All consumers residing in the United States and abroad who, during the period within one year of the date of the filing of the complaint, were
 5 contacted or sued in the United States by either Collins Financial or Nelson & Kennard in an effort to collect an alleged debt.

7 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 8 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 9 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 10 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 11 default judgments against consumers without having original or copies of original agreements to prove
 12 the existence, terms, and amount of the debt, and in many cases without having proper information
 13 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 14 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 15 individuals who the collection law firms know have no knowledge of the underlying facts and file
 16 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 17 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 18 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 19 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

20 The manner in which Nelson receives debt related information is part of its debt collection
 21 practices. Therefore, Nelson’s procedures and policies for receiving debt related information are
 22 relevant.

23 While Nelson agrees to produce records in response to Interrogatory No. 5 pursuant to Rule
 24 33(d), Nelson fails to specify which records. If the served party chooses to respond to an interrogatory
 25 by producing business records, the served party must specify, in detail, the records from which the
 26 answer may be derived or ascertained and afford the party serving the interrogatory reasonable
 27 opportunity to examine, audit, or inspect the record. See Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*,
 28 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

1 As the authorities above reflect, the citation to and production of records as an alternate means
 2 for responding to interrogatories is proper so long as the documents produced are the party's "business
 3 records" and the description of the records produced in lieu of a response is sufficiently detailed to
 4 enable the propounding party to locate them. Here, Nelson's citation to and alleged agreement to
 5 produce documents does not satisfy these two requirements. The response is insufficient for two
 6 reasons. First, it does not direct Tourgeman to any "business records." Second, even assuming these
 7 documents are business records, this response lacks the required specificity. Nelson must at least
 8 provide the titles of the documents or Bates numbers of the documents responsive to this Request.

9 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 10 response to Interrogatory No. 5 without the stated objections and provide a substantive response.

11 **SPECIAL INTERROGATORY NO. 7:**

12 Please describe NELSON's procedures and policies for filing a lawsuit for breach of contract on
 13 behalf of NELSON's client.

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

15 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
 16 terms "procedures and policies for filing a lawsuit" and "NELSON's client." Nelson & Kennard has a
 17 number of clients and it employs various methods on behalf of those clients. Defendant also objects to
 18 this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the
 19 extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably
 20 calculated to lead to the discovery of admissible evidence. Defendant further objects to this
 21 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
 22 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
 23 that information without the consent of third parties and to the extent that it seeks information subject to
 24 the attorney-client privilege or the attorney work product doctrine.

25 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

26 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
 27 terms "procedures and policies for filing a lawsuit" and "NELSON's client." Nelson & Kennard has a
 28 number of clients and it employs various methods on behalf of those clients. For purposes of

1 responding to this Interrogatory, Defendant will assume that the client references is Collins Financial
2 Services. Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
3 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
4 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
5 Defendant further objects to this Interrogatory to the extent that it seeks proprietary information, trade
6 secret information, information subject to protective orders, confidentiality agreements, or statutory
7 provisions that bar the disclosure of that information without the consent of third parties and to the
8 extent that it seeks information subject to the attorney-client privilege or the attorney work product
9 doctrine. Subject to and without waiving the forgoing objection of the General Objections, Defendant
10 responds as follows:

11 Once the firm makes a decision to file suit, an employee of the firm will prepare a draft
12 complaint on a California Judicial Council form based on the information received from the client or
13 otherwise available to the firm. The draft complaint is then forwarded to an attorney for review. The
14 reviewing attorney examines the information available to the firm concerning the account and reviews
15 the complaint to ensure that the information plead in it, *i.e.*, the Plaintiff's name, the name of the
16 original creditor, the name of the debtor, the date of the breach of the obligation sued upon, the date of
17 charge-off, amount at issue and type of debt (revolving line of credit or loan, for example) matches the
18 information provided by Defendant's client. The attorney also reviews the complaint to ensure that the
19 exemplar terms and conditions attached as an exhibit, if any, are those that were provided to Defendant
20 in connection with the subject account.

21 Further, the attorney reviews the notes made on the debtor's account to confirm that a letter has
22 been sent to the debtor informing him that if the collection action is filed, Collins Financial Services,
23 Inc. might be entitled to recover its reasonable attorney's fees and court costs as allowed by law in
24 addition to the principal and interest owed. The attorney also reviews the billing and/or delivery
25 addresses reflected in the account media that was provided by Defendant's client related to the subject
26 account, as well as the results of the skiptracing work of the office staff, including the notes made
27 regarding letters sent and received and any notes made regarding forwarding or returning of mail or
28 telephone contact in order to verify the debtor's county of residence. The attorney also reviews the

1 account media in order to confirm the date of last payment received by the original creditor in order to
 2 confirm that a suit is “in statute” at the time it is filed. Finally, the attorney confirms based upon the
 3 information available to the firm that the suit is being filed in the correct judicial district.

4 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

5 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 6 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 7 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 8 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

9 Nelson objects to Interrogatory No. 7 on the basis that it is “overbroad, unduly burdensome and
 10 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 11 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 12 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 13 to carry a heavy burden of showing” why discovery should be denied).

14 Nelson objects to Interrogatory No. 7 on the basis that the terms “procedures and policies for
 15 filing a lawsuit” and “NELSON’s client” are vague and ambiguous. Nelson, however, has failed to
 16 exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in
 17 discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688
 18 (N.D. Cal. 2007). Nelson argues it has a “number of clients and it employs various methods on behalf
 19 of those clients.” This is the exact information this Interrogatory seeks. If Nelson employs various
 20 methods for different clients, then Nelson must disclose those methods in its response.

21 Federal Rule of Civil Procedure 26(b)(5) further provides:

22 When a party withholds information otherwise discoverable by claiming
 23 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 24 (i) expressly make the claim; and
 25 (ii) describe the nature of the documents, communications, or tangible things
 26 not produced or disclosed--and do so in a manner that, without revealing
 27 information itself privileged or protected, will enable other parties to
 28 assess the claim.

1 “A privilege log should contain the following information: (1) the identity and position of its
 2 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 3 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 4 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 5 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 6 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
 7 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 8 246 F.R.D. 614, 620 (C.D. Cal. 2007).

9 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 10 Interrogatory No. 7. The objection is stated simply as “seek[ing] information subject to the attorney-
 11 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 12 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 13 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 14 Nelson has failed to produce a privilege log containing any of the above-described information as
 15 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 16 claims cannot be properly evaluated.

17 Lastly, Nelson’s supplemental response to Interrogatory No. 7 attempts to limit the response to
 18 Collins. The Complaint, however, contains class allegations that Nelson engages in improper debt
 19 collection activities. Indeed, the Complaint includes class allegations and a class comprised of:

20 All consumers residing in the United States and abroad who, during the
 21 period within one year of the date of the filing of the complaint, were
 22 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

23 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 24 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 25 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 26 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 27 default judgments against consumers without having original or copies of original agreements to prove
 28 the existence, terms, and amount of the debt, and in many cases without having proper information

1 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 2 service." ¶32. The Complaint also notes that "Nelson & Kennard rely on affidavits signed by
 3 individuals who the collection law firms know have no knowledge of the underlying facts and file
 4 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 5 the alleged debt." ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 6 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 7 lawsuits. As such, Nelson's entire debt collection practices are at issue.

8 Therefore, Nelson's procedures and policies for filing a debt-related lawsuit on behalf of all
 9 clients, not just Collins, are relevant here.

10 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 11 response to Interrogatory No. 7 without the stated objections and provide a substantive response.

12 **SPECIAL INTERROGATORY NO. 10:**

13 Please describe NELSON's procedures and policies for settling outstanding alleged debts from
 14 alleged debtors.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

16 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
 17 term "procedures and policies for settling." Nelson & Kennard has a number of clients and it utilized
 18 different approaches to settlement based upon the client and the circumstances. Defendant also objects
 19 to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the
 20 extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably
 21 calculated to lead to the discovery of admissible evidence. Defendant further objects to this
 22 Interrogatory to the extent that it seeks proprietary information, trade secret information, information
 23 subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of
 24 that information without the consent of third parties and to the extent that it seeks information subject to
 25 the attorney-client privilege or the attorney work product doctrine.

26 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

27 Federal Rule of Civil Procedure 33 governs the use of Interrogatories during discovery. Rule
 28 33(b)(3) requires that "[e]ach interrogatory must, to the extent it is not objected to, be answered

1 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 2 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive
 3 response to this Interrogatory.

4 Nelson objects to Interrogatory No. 10 on the basis that it is “overbroad, unduly burdensome and
 5 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 6 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 7 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 8 to carry a heavy burden of showing” why discovery should be denied).

9 Nelson objects to Interrogatory No. 10 on the basis that the term “procedures and policies for
 10 settling” is vague and ambiguous. Nelson, however, has failed to exercise reason and common sense to
 11 attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners,*
 12 *L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Nelson argues it “has a
 13 number of clients and it utilized different approaches to settlement based upon the client and the
 14 circumstances.” This is the exact information this Interrogatory seeks. If Nelson employs various
 15 methods for different clients, then Nelson must disclose those methods.

16 Federal Rule of Civil Procedure 26(b)(5) further provides:

17 When a party withholds information otherwise discoverable by claiming
 18 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 19 (i) expressly make the claim; and
- 20 (ii) describe the nature of the documents, communications, or tangible things
 21 not produced or disclosed--and do so in a manner that, without revealing
 22 information itself privileged or protected, will enable other parties to
 23 assess the claim.

24 “A privilege log should contain the following information: (1) the identity and position of its
 25 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 26 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 27 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 28 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 29 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial

1 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 2 246 F.R.D. 614, 620 (C.D. Cal. 2007).

3 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 4 Interrogatory No. 10. The objection is stated simply as “seek[ing] information subject to the attorney-
 5 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 6 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 7 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 8 Nelson has failed to produce a privilege log containing any of the above-described information as
 9 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 10 claims cannot be properly evaluated.

11 The Complaint alleges that Nelson improperly initiates collections and unlawfully files suits
 12 against alleged debtors. The manner in which Nelson settles debts with alleged debtors is one part of its
 13 debt collection activities. Therefore, Nelson’s policies and procedures for settling debts tend to show
 14 how Nelson settles its debts and reflects upon its debt collection activities. Thus, Interrogatory No. 10
 15 is relevant and reasonably calculated to lead to the discovery of admissible evidence.

16 Accordingly, Tourgeaman requests that this Court order Nelson to provide a supplemental
 17 response to Interrogatory No. 10 without the stated objections and provide a substantive response.

18 **SPECIAL INTERROGATORY NO. 11:**

19 Please identify all creditors that retained NELSON – from July 31, 2006 to the present – for the
 20 purpose of collecting debts.

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 11:**

22 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
 23 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
 24 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. There is no
 25 basis for identifying other creditors that did not extend credit to Plaintiff and that have no relationship to
 26 this case. Defendant further objects to this Interrogatory to the extent that it seeks proprietary
 27 information, trade secret information, information subject to protective orders, confidentiality
 28 agreements, or statutory provisions that bar the disclosure of that information without the consent of

1 third parties and to the extent that it seeks information subject to the attorney-client privilege or the
 2 attorney work product doctrine.

3 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 11:**

4 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 5 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 6 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 7 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive
 8 response to this Interrogatory.

9 Nelson objects to Interrogatory No. 11 on the basis that it is “overbroad, unduly burdensome and
 10 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 11 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 12 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 13 to carry a heavy burden of showing” why discovery should be denied).

14 Federal Rule of Civil Procedure 26(b)(5) further provides:

15 When a party withholds information otherwise discoverable by claiming
 16 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- 17 (i) expressly make the claim; and
 18 (ii) describe the nature of the documents, communications, or tangible things
 19 not produced or disclosed--and do so in a manner that, without revealing
 20 information itself privileged or protected, will enable other parties to
 assess the claim.

21 “A privilege log should contain the following information: (1) the identity and position of its
 22 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
 23 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
 24 prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other
 25 reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal.
 26 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial
 27 burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*,
 28 246 F.R.D. 614, 620 (C.D. Cal. 2007).

1 Here, Nelson asserts the attorney-client privilege and attorney work product protection to
 2 Interrogatory No. 11. The objection is stated simply as “seek[ing] information subject to the attorney-
 3 client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
 4 privilege or work product doctrine is insufficient to enable the propounding party to assess the
 5 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
 6 Nelson has failed to produce a privilege log containing any of the above-described information as
 7 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
 8 claims cannot be properly evaluated.

9 Nelson objects to Interrogatory No. 11 on relevancy grounds, arguing that “there is no basis for
 10 identifying other creditors that did not extend credit to Plaintiff.” Nelson is wrong. Creditors that
 11 retained Nelson from July 31, 2006 to the present may have information regarding Nelson’s debt
 12 collection activities and could potentially testify as witnesses. Since Nelson’s debt collection activities
 13 are directly at issue here, this Interrogatory is within the scope of the Federal Rules of Civil Procedure.

14 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 15 response to Interrogatory No. 11 without the stated objections and provide a substantive response.

16 **SPECIAL INTERROGATORY NO. 13:**

17 Did NELSON make any substantive change in company policy from July 31, 2006 to the
 18 present? If so, please identify and describe any substantive changes NELSON made – from July 31,
 19 2006 to the present – to any NELSON policy or procedure in an effort to comply with the provision of
 20 the Federal [sic] Debt Collection Practices Act.

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

22 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous regarding
 23 the term “substantive change in company policy.” The firm of Nelson & Kennard complies with the
 24 FDCPA and engages in ongoing efforts to ensure compliance. Subject to and without waiving the
 25 forgoing objections or the General Objections, Defendant responds as follows: Defendant exercises its
 26 option to produce records in response to this Interrogatory pursuant to Rule 33(d) of the Federal Rules
 27 of Civil Procedure.

28

1 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

2 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 3 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 4 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 5 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

6 Nelson objects to Interrogatory No. 13 on the basis that the term “substantive change in
 7 company policy” is “vague and ambiguous.” Nelson, however, has failed to exercise reason and
 8 common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row*
 9 *Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Because
 10 Nelson has failed to demonstrate how this Interrogatory is vague and ambiguous, this boilerplate
 11 objection cannot be sustained.

12 While Nelson agrees to produce records in response to Interrogatory No. 13 pursuant to Rule
 13 33(d), Nelson fails to specify which records. If the served party chooses to respond to an interrogatory
 14 by producing business records, the served party must specify, in detail, the records from which the
 15 answer may be derived or ascertained and afford the party serving the interrogatory reasonable
 16 opportunity to examine, audit, or inspect the record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*,
 17 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

18 As the authorities above reflect, the citation to and production of records as an alternate means
 19 for responding to interrogatories is proper so long as the documents produced are the party’s “business
 20 records” and the description of the records produced in lieu of a response is sufficiently detailed to
 21 enable the propounding party to locate them. Here, Nelson’s citation to and alleged agreement to
 22 produce documents does not satisfy these two requirements. The response is insufficient for two
 23 reasons. First, it does not direct Tourgeman to any “business records.” Second, even assuming these
 24 documents are business records, this response lacks the required specificity. Nelson must at least
 25 provide the titles of the documents or Bates numbers of the documents responsive to this Request.

26 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 27 response to Interrogatory No. 13 without the stated objections and provide a substantive response.
 28

1 **SPECIAL INTERROGATORY NO. 14:**

2 Please describe the compensation agreements between NELSON and any creditor that used
 3 NELSON to file complaints against alleged debtors for breach of contract and Rule 3.740 collections.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

5 Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome
 6 and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of
 7 this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. The
 8 compensation arrangements between Nelson & Kennard and its clients have nothing to do with the
 9 allegations of this case. There is no legitimate basis for requesting this information, other than to harass
 10 and annoy Defendant. Defendant further objects to this Interrogatory to the extent that it seeks
 11 proprietary information, trade secret information, information subject to protective orders,
 12 confidentiality agreements, or statutory provisions that bar the disclosure of that information without the
 13 consent of third parties and to the extent that it seeks information subject to the attorney-client privilege
 14 or the attorney work product doctrine..

15 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

16 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 17 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 18 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 19 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Nelson has not provided any substantive
 20 response to this interrogatory.

21 Nelson objects to Interrogatory No. 14 on the basis that it is “overbroad, unduly burdensome and
 22 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 23 the discovery of admissible evidence.” But Nelson fails to provide any explanation for these objections.
 24 *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are “required
 25 to carry a heavy burden of showing” why discovery should be denied).

26 Federal Rule of Civil Procedure 26(b)(5) further provides:

27 When a party withholds information otherwise discoverable by claiming
 28 that the information is privileged or subject to protection as trial-
 preparation material, the party must:

- (i) expressly make the claim; and
 - (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Nelson asserts the attorney-client privilege and attorney work product protection to Interrogatory No. 14. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the Interrogatory in question. Further, Nelson has failed to produce a privilege log containing any of the above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege claims cannot be properly evaluated.

Nelson also objects to Interrogatory No. 14 on relevancy grounds, arguing “there is no legitimate basis to ask for this information.” Nelson is wrong. Nelson’s compensation agreements with other creditors evidences Nelson’s incentive structure, reveals how Nelson prioritizes its efforts against certain debtors, and further explains the extent of Nelson’s debt collection activities. Since Nelson’s debt collection practices are directly at issue here, this Interrogatory is within the scope of the Federal Rules of Civil Procedure.

1 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 2 response to Interrogatory No. 14 without the stated objections and provide a substantive response.

3 **SPECIAL INTERROGATORY NO. 16:**

4 Please identify the number of demand letters NELSON sent to alleged debtors from July 2006 to
 5 the present.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

7 Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
 8 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
 9 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
 10 This case does not challenge the contents of any demand letter sent by Nelson & Kennard. Further,
 11 Defendant does not concede that Plaintiff may pursue this action as a purported class action nor does
 12 Defendant concede that, even if class treatment were appropriate, that a class action is proper here, or
 13 that Plaintiff is a proper class representative with standing to pursue claims on behalf of a purported
 14 class. At best, the Interrogatory is premature.

15 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

16 Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly
 17 burdensome and oppressive, and to the extent that it seeks information which is not relevant to the
 18 subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.
 19 This case does not challenge the contents of any demand letter sent by Nelson & Kennard, nor does
 20 Plaintiff seek to certify a class of debtors who received letters. There is no basis for demanding that the
 21 firm disclose how many letters were sent. Defendant does not concede that Plaintiff may pursue this
 22 action as a purported class action nor does Defendant concede that, even if class treatment were
 23 appropriate, that a class action is proper here, or that Plaintiff is a proper class representative with
 24 standing to pursue claims on behalf of a purported class. At best, the Interrogatory is premature.

25 Subject to and without waiving the foregoing and the General Objections, Defendant responds
 26 as follows: from July 2006 to the present, Defendant sent letters to more than forty debtors in an
 27 attempt to collect a debt.

28

1 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

2 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 3 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 4 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 5 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

6 Nelson objects to Interrogatory No. 16 on the basis that it is “overbroad, unduly burdensome and
 7 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 8 the discovery of admissible evidence.” Although Nelson appears to argue the merits of the case in its
 9 discovery response, Nelson has failed to demonstrate how this Interrogatory is overbroad, unduly
 10 burdensome and oppressive. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those
 11 opposing discovery are “required to carry a heavy burden of showing” why discovery should be
 12 denied).

13 In September 2009, this court rejected Nelson’s argument that discovery related to “class issues”
 14 was premature until the class was certified. Nelson still claims in its supplemental response that
 15 Interrogatory No. 16 is premature because Tourgeman may not pursue this case as a class action.
 16 Nelson’s contention is inappropriate, especially since Nelson provided the supplemental response on
 17 January 26, 2010, nearly four months after this court rejected Nelson’s contention.

18 Further, Nelson continues to ignore the allegations in the Complaint. The Complaint contains
 19 class allegations that Nelson engages in improper debt collection activities. Indeed, the Complaint
 20 includes class allegations and a class comprised of:

21 All consumers residing in the United States and abroad who, during the
 22 period within one year of the date of the filing of the complaint, were
 23 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

24 Further, the Complaint contains numerous allegations that Nelson improperly initiates
 25 collections and unlawfully files lawsuits against debtors. In particular, the Complaint explicitly alleges
 26 that Nelson “fails to take the time and effort to verify the alleged debts or ensure that the lawsuits it files
 27 are legitimate and accurate.” ¶32. The Complaint also specifies that Nelson “attempts to quickly obtain
 28 default judgments against consumers without having original or copies of original agreements to prove

1 the existence, terms, and amount of the debt, and in many cases without having proper information
 2 regarding the location of the debtor, thus obtaining default judgments without effectuating proper
 3 service.” ¶32. The Complaint also notes that “Nelson & Kennard rely on affidavits signed by
 4 individuals who the collection law firms know have no knowledge of the underlying facts and file
 5 verified complaints in which they attest to the truthfulness and accuracy of the information regarding
 6 the alleged debt.” ¶35. In other words, regardless of whether the alleged creditor is Collins or the
 7 alleged debtor is Tourgeman, Nelson does not verify information before it initiates collections and files
 8 lawsuits. As such, Nelson’s entire debt collection practices are at issue.

9 The information sought in this Request establishes the number of class members and shows the
 10 scope of Nelson’s debt collection activities. Originally, Nelson outright refused to answer Interrogatory
 11 No. **16**. Now, Nelson’s supplemental response fails to specify an exact number, merely stating the
 12 answer is “more than forty.” Under Federal Rule 37, an “evasive or incomplete disclosure, answer, or
 13 response” is equivalent to “a failure to disclose, answer, or respond.” Fed. R. Civ. P. 37(a)(3).

14 Lastly, Interrogatory No. **16** is narrowly tailored as it seeks the *number* of demand letters
 15 Nelson sent to alleged debtors from July 2006 to the present. The Interrogatory does not require Nelson
 16 to engage in burdensome data gathering of personal contact information. Rather, the Interrogatory
 17 merely seeks a *number*.

18 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
 19 response to Interrogatory No. **16** without the stated objections and provide a substantive response.

20 **SPECIAL INTERROGATORY NO. 18:**

21 Please describe the process NELSON uses to skip trace debtors in the event of a debtor’s
 22 address or phone number change.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

24 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous.

25 Subject to and without waiving the forgoing objections or the General Objections, Defendant
 26 responds as follows: Nelson & Kennard does not skip trace debtors if the debtor’s address or phone
 27 number change. The firm simply enters the new address or phone number into its account records.

1 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

2 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 3 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 4 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 5 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4).

6 Nelson objects to Interrogatory No. 18 on the basis that the interrogatory is “vague and
 7 ambiguous” without specifying how or why. Nelson has failed to exercise reason and common sense to
 8 attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners,*
 9 *L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Skip tracing is a process
 10 frequently utilized by debt collectors to locate debtors. Nelson admits in its supplemental response to
 11 Interrogatory No. 7 that it skip traces debtors. Thus, Nelson is familiar with the terminology and the
 12 process.

13 Accordingly, Tourgeaman requests that this Court order Nelson to provide a supplemental
 14 response to Interrogatory No. 18 without the stated objections and provide a substantive response.

15 **SPECIAL INTERROGATORY NO. 19:**

16 Please describe the position at NELSON that prepares the affidavit authorizing legal action
 17 against an alleged debtor, including but not limited to the position’s duties, responsibilities, job
 18 requirements, and the number of people who perform this task for NELSON.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

20 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous generally
 21 and as to the phrase “the position at NELSON that prepares the affidavit authorizing legal action.”

22 Subject to and without waiving the forgoing objections or the General Objections, Defendant
 23 responds as follows: There is no such affidavit or position at Nelson & Kennard as described in this
 24 interrogatory.

25 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

26 Federal Rule of Civil Procedure 33 governs the use of interrogatories during discovery. Rule
 27 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 28 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must

1 be stated "with specificity." Fed. R. Civ. P. 33(b)(4).

2 Nelson objects to Interrogatory No. 19 on the basis that the term "the position at NELSON that
3 prepares the affidavits authorizing legal action" is vague and ambiguous. Nelson has failed to exercise
4 reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery.
5 *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal.
6 2007).

7 Accordingly, Tourgeman requests that this Court order Nelson to provide a supplemental
8 response to Interrogatory No. 19 without the stated objections and provide a substantive response.
9

10 Dated: March 5, 2010

JOHNSON BOTTINI, LLP
FRANCIS A. BOTTINI, JR.
BRETT M. WEAVER

11
12
13 By: /s/ Brett Weaver
14 BRETT WEAVER
15 501 West Broadway, Suite 1720
16 San Diego, California 92101
Telephone: (619) 230-0063
Facsimile: (619) 238-0622
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21
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Attorneys for Plaintiff David Tourgeman